IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL CONTEMPT PETITION NO.15 OF 2004
(Old No. Contempt Petition No.181 of 1997)

Mahim Causeway Macchimar Co-op.
Housing Society Ltd. & others .... Petitioners
Vs.
Jivan B. Patil & others .... Respondents

Shri K.N. Kore for the Petitioners.

Shri B.G. Vaidya for the Respondent Nos.1, 3, 4 & 5.

Sarvasri L.H. Patil and S.L. Suryavanshi for the Respondent No.2.

Shri I.S. Thakur, A.P.P., for the Respondent No.7-State.

Shri Piyush Shah for the Respondent No.8.

CORAM: R.M.S. KHANDEPARKAR &
R.S. MOHITE, JJ.

DATED: JULY 26, 2004

P.C:

Heard. Perused the records. The grievance of the petitioners is that an Advocate appearing before the Co-operative Court had misbehaved in the process of arguing a matter before the said Court and, therefore, the respondents are liable to be prosecuted for contempt of Court. Bare perusal of the order dated 14-2-1997 passed by the Co-operative Court No.III, Mumbai, itself discloses that there were some sort of unwarranted remarks by the Advocate in the process of arguments and

taking note thereof, the Co-operative Court had imposed costs while dismissing the application in respect of which the arguments were advanced. The order further discloses that the costs were directed to be paid by the Advocate himself. In the circumstances, the Advocate has already been penalised for whatever unwarranted remarks which he had made in the course of the arguments and, therefore, there is no case for proceeding against the respondents for contempt of Court on the very ground. Hence, the petition is rejected.

The learned Advocate for the petitioners sought to rely upon the decision of the Apex Court in the matter of **Daroga Singh and others v. B.K. Pandey,** reported in (2004) 5 SCC 26 in support of the contention that this is a fit case for initiating contempt proceedings against the respondents. Perusal of the facts of the case in Daroga Singh’s case (supra) clearly disclose that therein the Judge was sought to be assaulted with prior planning and those facts clearly warranted action under the Contempt of Courts Act. The facts of the said case being totally different than the case in hand, the decision has no application to the matter in issue.

We are also informed that the petitioners had approached the Bar Council for action against the

respondent-Advocate. However, the Bar Council has already rejected the contention of the petitioners.

Certified copy expedited.

(R.M.S. KHANDEPARKAR, J.)

(R.S. MOHITE, J.)